IN THE HIGH COURT OF JUDICATURE
AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.733 OF 2007
WITH
CRIMINAL APPEAL NO.600 OF 2007

Mangesh Hasan Kale ...Applicant/Appellant
Vs.
State of Maharashtra ...Respondent

Mr. Milind Deshmukh for Applicant/Appellant
Mr. A.R. Patil, A.P.P for State

CORAM: SMT. RANJANA DESAI &
SMT.ROSHAN DALVI, JJ.
DATED: 3RD AUGUST, 2007

P.C.

1. The applicant was tried in the Court of III Adhoc Sessions Judge, Baramati, Pune in Sessions Case No.69 of 2006 for offences punishable under Sections 302, 201 and 404 r.w. 34 of Indian Penal Code. By judgment dated 25th April, 2007, the learned Sessions Judge convicted him for offences punishable under Sections 302, 201, 404 r.w. 34 of Indian Penal Code and sentenced him to suffer Rigorous Imprisonment for life. Appeal filed by the applicant is admitted. This is his application for bail.

2. We have heard the learned Counsel for the applicant, he stated that the prosecution case rests on the circumstantial evidence. The star witness of the prosecution is P.W. 6 Suman. She is the niece of the deceased and she claims to have seen the deceased in the company of the accused. The learned Counsel for the applicant contended that the evidence of this witness does not inspire confidence. He submitted that the prosecution alleges that at the instance of the applicant ornaments of the deceased were recovered. However, the said discovery is effected 4 days after the arrest of the applicant. Hence, it is doubtful. The learned Counsel further submitted that the applicant was on bail during the trial and he has not misused the liberty and hence he may be released on bail. The learned A.P.P has opposed the grant of bail.

3. P.W. 6 Suman, niece of the deceased claims to have seen the deceased in the company of the accused on the day at about 1.30 p.m of 22nd November, 2005. According to her, she had seen him from short distance. She has further stated that she had seen him from the back and, therefore, identification of the applicant by P.W. 6 Suman is, primafacie, not free from doubt. The only other evidence against the applicant is of recovery of ornaments which is

effected 4 days after his arrest.

4. In the circumstances, considering the fact that the applicant was on bail during the trial and that he has not misused his bail, we are of the opinion that the applicant should be released on bail. In order to prevent any untoward incident taking place, while on bail, the applicant should stay outside the jurisdiction of the village Awasari, Talka: Indapur, Dist: Thane. Hence, following order :

O R D E R

(1) The applicant Mangesh Hasan Kale is ordered to be released on bail in a sum of Rs.10,000/- with one or two sureties in like amount.

(2) While on bail, the applicant shall stay outside the jurisdiction of village Awasari, Tal: Indapur, Dist: Pune and he shall report to Indapaur Police Station once in two months.

(3) Application is disposed off accordingly.

(SMT. ROSHAN DALVI, J.) (SMT. RANJANA DESAI, J)